



STATE OF CALIFORNIA

GAVIN NEWSOM, Governor

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

**FILED**  
05/19/21  
03:26 PM

May 19, 2021

**Agenda ID #19543**  
**Quasi-Legislative**

TO PARTIES OF RECORD IN INVESTIGATION 19-06-013:

This is the proposed decision of Commissioner Shiroma. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's June 24, 2021 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:mph

Attachment

Decision **PROPOSED DECISION OF COMMISSIONER SHIROMA**  
(Mailed 5/19/2021)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation for the Purpose of Establishing a List for the Fiscal Years 2020-2021 and 2021-2022 of Existing Crossings at Grade of City Streets, County Roads or State Highways in need of separation, or Existing Separations in need of Alterations or Reconstruction in Accordance with Section 2452 of the California Streets and Highways Code.

Investigation 19-06-013

**DECISION ESTABLISHING THE CALIFORNIA GRADE SEPARATION FUND  
PRIORITY LIST FOR FISCAL YEAR 2021-2022****Summary**

This decision establishes and adopts the California Grade Separation Fund Priority List for Fiscal Year (FY) 2021-2022, as required by California Streets and Highways Code Section 2450 *et seq.* Four projects from the FY 2020-2021 Grade Separation Program Priority List adopted by Decision 20-06-030, the interim decision in this investigation proceeding, have already received funding allocations this fiscal year. Therefore, those four projects are deleted from the FY 2020-2021 Priority List to establish the FY 2021-2022 Priority List we adopt by this decision.

Investigation 19-06-013 is closed.

## **1. Background**

### **1.1. Grade Separation Program**

Section 2452 of the California Streets and Highways Code requires the California Public Utilities Commission (Commission) to establish the Grade Separation Program Priority List (Priority List) for qualified projects and furnish it to the California Transportation Commission (CTC) by July 1 of each year for use in the fiscal year (FY) beginning on that date. The Priority List establishes the relative priorities for allocation of State funds to qualified rail crossing projects most urgently in need of separation or alteration, to meet the program goals of eliminating hazardous railroad crossings.<sup>1</sup> These projects include construction of new grade separations to replace existing at-grade rail crossings, or alteration or reconstruction of existing grade-separated rail crossings.

The CTC is responsible for allocating (distributing) the State funds to qualified projects, a responsibility it has delegated to the California Department of Transportation (Caltrans).<sup>2</sup> Section 190 of the Streets and Highways Code requires the State's annual budget to include \$15 million for funding of these Priority List projects.

Every two years, the Commission issues a new Order Instituting Investigation (OII), in which it determines the Priority List for the next two FYs. The Commission adopts the Priority List for the first FY by interim decision issued before that FY begins. The Commission then revises the Priority List for the second FY by deleting projects for which funds were actually allocated in the first FY, adopting a revised Priority List by final decision before the second FY begins. Thereafter, a new two-year funding cycle begins again with the

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<sup>1</sup> S&H Code § 2450 *et seq.*

<sup>2</sup> S&H Code § 2453.

issuance of a new OII for the adoption of a new Priority List for the following two FYs.

### **1.2. Procedural Background**

On June 27, 2019, the Commission initiated the current proceeding by issuing Investigation (I.) 19-06-013 to establish the Priority List for FYs 2020-2021 and 2021-2022. RSD received a total of 36 timely nominations from railroads, light rail transit agencies, cities, counties, and other interested parties for projects to be considered for inclusion in the first Priority List of this OII. After evaluating each nominated project, RSD reviewed the nominations, data submitted in support of the nomination, and all filings in this proceeding to develop its recommended preliminary Priority List. RSD's recommended preliminary Priority List has been filed in this proceeding, as ordered by the assigned Administrative Law Judge.

Evidentiary hearings were then held, during which the Commission gathered further evidence regarding those nominated projects on the recommended preliminary Priority List. Thereafter, RSD filed and served a revised Priority List, which included 36 nominated projects, based on the evidence presented at the hearings, as ordered by the assigned Administrative Law Judge.<sup>3</sup>

Based thereon, by interim Decision (D.) 20-06-030, the Commission adopted RSD's recommended Priority List for FY 2020-2021. That Priority List established the relative priorities for funding qualified highway rail crossings

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<sup>3</sup> In D.20-06-030 at 4, "... the 2020-2021 Priority List was finalized by RSD to include 36 nominations. All of the nominated projects were included in the Priority List."

projects which the Commission determines to be the most urgently in need of separation, alteration or reconstruction, in the current OII.

## **2. Establishment of the FY 2021-2022 Priority List**

As discussed below, we establish and adopt the California Grade Separation Fund Priority List for FY 2021-2022, as required by California Streets and Highways Code Section 2450 *et seq.*

Since our issuance of the interim decision, D.20-06-030, which adopted RSD's recommended Priority List for FY 2020-2021, four projects on that list have already been funded. Those four projects are removed from the revised Priority List for FY 2021-2022, which is appended to this decision as Attachment A and adopted. Adoption of the FY 2021-2022 Priority List closes this biennial proceeding.

The four projects for which allocations have been made and which are removed from the 2020-2021 Priority List are:

<b>FY 2020-2021 Ranking</b>	<b>Project Name</b>
<b>2</b>	<b>McKinley Street City of Corona</b>
<b>17</b>	<b>Montebello Boulevard City of Montebello</b>
<b>18</b>	<b>Turnbull Canyon Road City of Industry</b>
<b>26</b>	<b>North First Avenue Bridge City of Barstow</b>

**3. Categorization and Need for Hearing**

This proceeding has been categorized as quasi-legislative. Hearings were held in accordance with our adopted procedure for establishing the biennial priority list.

**4. Comments on Proposed Decision**

The proposed decision of Commissioner Genevieve Shiroma in this matter was mailed to the parties in accordance with Pub. Util. Code 311. Comments were filed by \_\_\_\_\_ on \_\_\_\_\_. Reply comments were filed by \_\_\_\_\_ on \_\_\_\_\_.

**5. Assignment of Proceeding**

Genevieve Shiroma is the assigned Commissioner and Hazlyn Fortune is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. The FY 2020-2021 Priority List was established by the interim decision in this OII, D.20-06-030.
2. Four projects on the FY 2020-2021 Priority List received allocations.
3. RSD has prepared and filed the revised Priority List for the second fiscal year, FY 2021-2022 (Attachment A to this decision).

**Conclusions of Law**

1. The FY 2021-2022 Grade Separation Priority List (Attachment A to this decision) should be adopted.
2. I.19-06-013 should be closed.

**O R D E R****IT IS ORDERED** that:

1. Pursuant to California Streets and Highways Code Section 2450 *et seq.*, the Fiscal Year 2021-2022 Grade Separation Priority List attached as Attachment A to this decision, is adopted, as the list of projects, in order of priority, which the

California Public Utilities Commission determines to be the most urgently in need of grade separation, alteration, or reconstruction.

2. The California Public Utilities Commission's Executive Director must furnish an electronic copy of this decision to the California Department of Transportation and the California Transportation Commission no later than July 1, 2021.

3. Investigation 19-06-013 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California